



Case Report

1	Case Number	0146/16
2	Advertiser	Coca-Cola South Pacific
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	13/04/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption
2.3 - Violence Bullying

DESCRIPTION OF THE ADVERTISEMENT

The advertisement opens with a number of scenes between two brothers in their home. The older brother is shown pushing his younger brother's hat down whilst he is playing a game, moving his headphones out of his reach and treading on his foot.

The scene then shows the younger boy sitting on a bench. He is approached by a group of teenagers who take his bottle of Coke Zero from him. The older brother comes along and takes it from them, returning it to his brother. As the younger boy starts to drink again, the older brother tips the bottle, causing some of it to spill. The younger brother laughs and smiles.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

Ad condones bullying - implying it is okay to bully someone after standing up for them. As a sufferer of bullying for years - particularly this type where someone "helps" then proceeds to go ahead with the same behaviour - is pathetic. Bullying should NEVER be made into a light-hearted joke.

We are living in a society faced with obesity, malnutrition and unhealthy eating habits and

we don't need advertising to encourage children to drink high sugar content beverages such as soft drinks

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

Thank you for your letter regarding two complaints received in relation to Coca-Cola South Pacific Pty Ltd's (CCSP) Coke Zero Brotherly Love television commercial. We thank you for bringing this matter to our attention and respond to the points raised as follows:

A description of the Advertisement

The Brotherly Love television commercial is one of a series of commercials being broadcast as part of Coca Cola's global Taste the Feeling campaign. The campaign brings to life the idea that drinking Coca-Cola is a simple pleasure that makes everyday moments more special. The commercials feature universal storytelling with the product at the heart to reflect both the functional and emotional aspects of the Coca Cola experience.

Brotherly Love captures the unique relationship between brothers, a universal story of love and conflict. Sibling rivalry means they don't always get along but they play an important role in each other's lives. The older brother can be playfully mischievous with his younger brother in ways that big brothers are, but he's protective of his brother when it really counts. When some teenagers take the younger brother's bottle of Coke Zero, the older brother comes to his rescue. He tries to make his brother feel better by playing a joke and tipping the bottle of Coke Zero while he is drinking, causing some of it to spill. The younger brother laughs and smiles. He knows his older brother cares. The overall theme of the advertisement is that brothers have each other's backs when it counts. The accompanying sound track, a new version of Hey Brother by Avicii, underscores the theme of family love and loyalty.

A digital copy of the advertising and details of the CAD Reference & CAD Classification

Please find attached a copy of the 30 second version of the Brotherly Love television commercial. The CAD Reference number is W2PCNNAF and the commercial is classified W (General/Care in Placement).

Details of the programs in which the advertisement appears

Please find attached the spot lists for the placement of the commercial on the 8th and 18th March 2016, the dates of the complaints.

Whether the audience of the programs is predominantly children

CCSP's media buyer, buys advertising in accordance with The Coca-Cola Company's Responsible Marketing Policy, a copy of which is attached. In accordance with the Responsible Marketing Policy, Universal McCann did not place the commercial in any television programs where the audience is predominantly children. As set out in the Responsible Marketing Policy, the Company defines media that directly targets children as media in which 35% or more of the audience is composed of children under 12.

Substantiation of any health, nutrition or ingredient claims or statements in the Advertisement.

The commercial does not contain any health, nutrition or ingredients claims or statements.

Comprehensive comments in relation to the complaints

The complaints raise the issues of:

- 1. Healthy lifestyle and excess consumption under section 2.2 of the Food & Beverages Advertising & Marketing Communications Code (Food & Beverages Code); and*
- 2. Violence (bullying) under section 2.3 of the Code of Ethics.*

The first complainant has specifically expressed concern that by featuring teenagers in the television commercial, it encourages children to drink soft drinks. The second complainant has specifically expressed concern that the commercial implies that it is acceptable to bully someone after standing up for them.

CCSP acknowledges that in addition to the above, the ASB will review the advertising against the entirety of Section 2 of both the Food & Beverages Code and the Code of Ethics. You have also asked us to provide comments in relation to the Code for Advertising and Marketing Communications to Children and the Australian Food and Grocery Council's Responsible Children's Marketing Initiative. We address each concern in detail below.

Food & Beverages Code

Section 2.2 provides:

Advertising or Marketing Communications for Food or Beverage Products shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered as excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to Prevailing Community Standards.

The commercial depicts three different moments in the brothers lives over several days – the younger brother playing a video game in the living room while the older brother talks on the phone and moves a set of headphones out of his brother's reach; annoying each other at the dinner table and in a park setting where the older brother confronts a group of teenagers. In the first moment, the younger brother is consuming a small bottle of Coca-Cola. In the other moments, he is either consuming one small bottle or a glass of Coke Zero. Coca-Cola contains 180 kilojoules per 100mLs which is 2.1% of the recommended daily intake of kilojoules for adults. Coke Zero does not contain any sugar and contains 1.4 kilojoules per 100mLs which is 0.02% of the recommended daily intake of kilojoules for adults.

We submit that the commercial does not undermine the importance of a healthy active lifestyle nor the promotion of healthy balanced diets. The commercial's narrative stretches over several days and shows the brothers in different settings – including hanging out at home, eating a family meal and in an active setting in a park. The brothers are clearly active,

healthy boys and the commercial depicts balanced consumption of Coca-Cola and Coke Zero as part of that active lifestyle. Further, the commercial does not disparage healthy foods or physical exercise, either explicitly or implicitly.

We further submit that the commercial does not encourage excess consumption of Coca-Cola or Coke Zero through its representation or portion sizes disproportionate to the settings. In Australia, Coca-Cola and Coke Zero is sold in a 330mL glass bottle. As outlined above, Coke Zero does not contain any sugar. It contains 1.4 kilojoules per 100mLs or 4.6 kilojoules per 330mL bottle. Consuming one 330mL bottle a day would represent only 0.1% of the recommend daily intake of energy for adults. A 330mL bottle of Coca Cola contains 594 kilojoules per 330mL bottle which is 7% of the recommended daily intake of energy for adults. In the living room and park moments in the commercial, only one bottle of Coca-Cola or Coke Zero is depicted. In the family meal moment, a 1.25L share bottle of Coke Zero is depicted. It is clear that it is being shared amongst the four family members and that the whole bottle may not be consumed.

Nutritional information is featured on all of our beverage products and on our website www.coca-colajourney.com.au to ensure consumers have all the information necessary regarding kilojoule content in order to be able to make appropriate choices for their individual needs based on their particular lifestyle. The Brotherly Love commercial underscores that choice. We take our corporate responsibility to address community concerns around obesity very seriously. We have worked hard to ensure consumers are provided with low kilojoule beverage options, such as Coke Zero, reduced serving sizes and provided clear nutrition information to ensure consumers can make informed choices about our products and the role they can play in an active, healthy lifestyle.

In relation to the remainder of section 2 of the Food & Beverages Code, section 2 contains a number of provisions in relation to truthful, honest advertising (2.1), making health claims (2.3), clear nutritional comparisons (2.4), statistically valid preference tests (2.5), accurate representations in relation to material characteristics (2.6), distinguishing between advertising and editorial content (2.7), meal substitutes (2.8) and compliance with other codes (2.9). We have considered each of these provisions of the Food & Beverages Code and it is CCSP's view that the commercial complies with all elements of section 2 of the Food & Beverages Code.

Code of Ethics

Section 2.3 provides:

Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

We firmly believe the commercial does not present or portray violence at all. The moment in the commercial of concern to the second complainant is the scene where the older brother defends his younger brother from three boys who take his bottle of Coke Zero. The older brother retrieves the bottle and, resisting the temptation to drink it himself, gives it back to his younger brother. In an attempt to humorously lighten the situation, he taps the end of the bottle whilst his brother is drinking from it, causing some of the contents to spill down his brother's shirt. It's an insight into a typical brother dynamic of being best friends and greatest enemies at the same time. They're united against the world, but that doesn't stop

them from a well-intentioned playful jibe at each other when they get the chance. It is clearly portrayed in the commercial that these two brothers love and protect each other. The commercial ends with both brothers smiling – they know at the end of the day that their relationship is strong and there is love and loyalty.

In ASB Case Report 0529/14, the Advertising Standards Board considered that the relevant commercial did not portray, condone or encourage bullying as the child depicted in the commercial did not appear upset and the overall tone of the commercial was lighthearted and not threatening or menacing. Similarly, in Brotherly Love, it is clear that the younger brother is not frightened, intimidated or menaced by his brother. We submit that there is no violence or bullying between the brothers. We consider that the majority of the relevant audience would interpret the act of tipping the Coke Zero on the younger brother in the framework of the overall narrative as humorous mischief between brothers which they both enjoy in the context of their close family relationship.

In relation to the remainder of section 2 of the Code of Ethics, section 2 contains a number of provisions in relation to not depicting people or material in a way which is discriminatory (2.1), sexually exploitative or degrading (2.2), not treating sex, sexuality and nudity with sensitivity to the relevant audience (2.4), employs obscene language (2.5) or depicts material which is contrary to prevailing community standards on health and safety. We have considered each of the provisions of section 2 of the Code of Ethics against the content of the Brotherly Love commercial and it is CCSP's view that the commercial does not contain any material which breaches section 2 of the Code of Ethics.

Responsible Children's Marketing Initiative and Code for Advertising and Marketing Communications to Children

You have advised that if the commercial is likely to be considered as being directed to children or predominantly directed to children, the ASB will consider the commercial in relation to the abovementioned codes. We consider each in turn:

Responsible Children's Marketing Initiative (RCMI)

The Coca-Cola Company has always taken seriously its commitment to market responsibly, across the globe, across all advertising media, and across all of our beverages. Our company has been a leader in the area of Responsible Marketing and honouring the rights of parents and caregivers to make the appropriate choices for their children is a cornerstone of our Responsible Marketing Policy. Accordingly, CCSP does not aim or direct any media marketing activity from any source to children under the age of 12. This includes not showing children under 12 in advertising consuming Coca-Cola beverages. The intent of this policy is to prevent interference with parental guidance with regard to diet. This commitment is reinforced by CCSP's voluntary signature of the RCMI and associated RMCI Action Plan. It is of fundamental importance to us to be part of, and responsible to, the communities in which we operate.

Schedule 1.1 of the RCMI provides that:

Advertising to children for food and/or beverages must, amongst other things, represent healthier dietary choices and be in the context of a healthy lifestyle.

Children are defined in the RCMI as “Persons under 12 years of age”. The word “primarily” is not defined and therefore is interpreted using its dictionary definition of “in the first place”. We note that this interpretation is supported in the AANA Code of Advertising and Marketing Communications to Children Practice Note.

CCSP submits that the commercial is not primarily directed to persons under 12 years of age. Rather, it is directed primarily to people aged between 18 – 54 years. This is reflected in the viewer demographics of the programs in which CCSP selected to place the commercial. The theme of brothers and family dynamics has a wide appeal. The Taste the Feeling campaign uses universal storytelling and everyday moments to connect with consumers around of the world across a very broad age range. The commercials give the viewer momentary but intimate glimpses into everyday stories, feelings and experiences that people share while enjoying a Coca-Cola or Coke Zero. Brotherly Love captures the universal story of love and conflict between family, highlighting the unique and challenging relationship experienced between two brothers. This narrative is often only one you recognise in hindsight as an adult. The theme is therefore not intended and is unlikely to appeal primarily to persons under 12.

We submit that the two teenage boys cast in the commercial have a wide appeal – to teenagers their own age, parents and grandparents. The commercial does not contain any dialogue. Rather it is accompanied by the song Hey Brother written by Avicii in 2013. The song lyrics convey unconditional love and loss, similarly unlikely to appeal primarily to children.

CCSP submits that, having regard to the theme, visuals and language used, the commercial is not primarily or predominantly directed to children.

Code for Advertising and Marketing Communications to Children (Children’s Code)

The Children’s Code defines “Advertising or Marketing Communications to Children” as “... Advertising ... which, having regard to the theme, visuals and language used, are directed primarily to Children ...”. The Children’s Code defines “Children” as “... persons 14 year old or younger ...”. The Children’s Code Practice Note provides that the Children’s Code does not apply to advertising which is directed at older children, or may be seen by children but is not directed primarily to them.

The Children’s Code Practice Note establishes that whether advertising is directed primarily to children is an objective test based on a number of factors including visual techniques, the product being advertised and the age of the characters in the advertising. As outlined above, the commercial is aimed in the first instance at the very broad age range of 18 - 54 year olds. Coca-Cola and Coke Zero is enjoyed by a wide age group, some of which may be children under the supervision of parents in a family environment, however the product is not targeted to children in accordance with the Company’s Responsible Marketing Policy and the RCMI. The theme, visuals and sound track to the commercial is designed to speak to a global audience across a broad age group. We submit that Brotherly Love is not directed primarily to children aged 14 years or younger and therefore falls outside of the scope of the Children’s Code.

Conclusion

It is CCSP’s view that the Brotherly Love television commercial complies with all elements of

the abovementioned codes. CCSP takes its obligations in relation to responsible advertising very seriously. We consider that when assessed against prevailing community standards and the relevant audience, the commercial does not breach the codes.

THE DETERMINATION

The Advertising Standards Board (“the Board”) considered whether this advertisement breaches the AFGC Responsible Children’s Marketing Initiative of the Australian Food and Grocery Council (AFGC RCMI), the AANA Food and Beverages Advertising and Marketing Communications Code (the “Food Code”) or the AANA Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement encourages children to drink high sugar content beverages and that it depicts and condones bullying behaviour.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement met the requirements of the AFGC RCMI.

The Board noted the relevant requirement is that the company does not advertise food and beverage products to children under 12 in ‘media’ unless those products represent healthy dietary choices.

Medium is defined as: ‘Television, radio, print, cinema, internet sites’.

The Board noted the RCMI Initiative provides that advertising or marketing communication activities are advertising or marketing communications to children and therefore captured under the RCMI Initiative if:

1. the content of the advertisement or marketing communication which, having regard to the theme, visuals and language, are directed primarily to children (and are for food and/or beverage products).
2. the placement of the advertisement or marketing communication is in a medium that is directed primarily to children. (in relation to television, all C and P rated programs and other rated programs that are directed primarily to children through their themes, visuals and language); and/or
3. where Children represent 35 percent or more of the audience of the Medium.

The Board noted the information provided by the advertiser about the range of programmes in which the advertisement was broadcast. The Board noted that the programmes in which the advertisement appears are programmes that are directed to adults and families and are not programmes which are primarily directed to children or likely to have child audiences in excess of 35%. The Board considered that the programming in which the advertisement appeared was not directed primarily to children – although a significant number of children may view some of the programmes.

On the basis of the viewing audience the Board determined that the advertisement was not

broadcast in a program where the audience is predominantly children or the program is directed primarily to children.

The Board noted however that it also must consider whether the advertisement or marketing communication is, having regard to the theme, visuals and language used, directed primarily to children (and are for food and/or beverage products).

The Board noted the dictionary definition of ‘primarily’ is ‘in the first place’ and that to be within the AFGC RCMI the Board must find that the advertisement is aimed in the first instance at children under 12.

The Board considered the theme of the advertisement and considered that the depiction of the relationship between teenaged brothers is a theme directed at parents who would recognise the behaviour in either their own childhood or in their children, or at teenagers experiencing the sibling relationship depicted. The Board noted the language used in the advertisement and considered that the relationship between the brothers is conveyed entirely through verbal clues which, in the Board’s view, are subtle and aimed at a more adult audience. The Board noted the song used in the advertisement and considered that the lyrics and tune give a feeling of nostalgia and would not be of principal appeal to children. Finally the Board noted the visuals of the advertisement and considered that the clothes worn by the brothers and the style of furnishing in their home has a retro feel which, in the Board’s view, is intended to appeal to an adult or to older children but is not likely to appeal to children.

The Board noted that although the advertisement may be attractive to children, overall based on the theme, language and visuals, the Board considered that the advertisement is not directed primarily to children.

Based on the above the Board considered that the provisions of the AFGC RCMI do not apply.

The Board considered whether the advertisement complied with all relevant provisions of the Food and Beverages Code.

The Board noted in particular Section 2.2 which states: ‘the advertising or marketing communication...shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to prevailing community standards.’

The Board considered that, consistent with previous decisions (Hungry Jacks 282/11, Mars 208/11, Fyna Foods 0101/14, Nestle 0262/15), the promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy or active lifestyle.

The Board then noted the Practice Note to section 2.2 which states:

The Board will not apply a legal test, but consider material subject to complaint as follows:

- (1) In testing whether an advertising or marketing communication undermines the

importance of a healthy lifestyle, the Board will consider whether the communication is disparaging of healthy foods or food choices or disparaging of physical exercise. Such disparagement need not be explicit, and the Board will consider the message that is likely to be taken by the average consumer within the target market of the communication.

The Board noted that the main actors in the advertisement are not shown to be engaging in physical activity however the Board noted that the advertisement features a montage of scenes depicting two brothers growing up, including a scene set in an outdoor park, and considered that whilst the advertisement does not actively encourage physical activity it was not disparaging of physical activity. The Board noted that the two brothers appear to be of a normal, healthy weight and considered that the average consumer would not consider the message to be a negative one or one that is discouraging physical activity.

(2) In testing whether an advertising or marketing communication encourages excess consumption through representation of products or portion sizes disproportionate to the setting portrayed, or by any other means contrary to prevailing community standards, the Board will consider whether members of the community in the target audience would most likely take a message condoning excess consumption.'

The Board noted that in the scene set in the lounge the younger brother has a standard, single serve bottle of Coca-Cola on the table in front of him and considered that the bottle appears to be full and we don't see anyone taking a drink from it. The Board noted the next scene depicts a family meal scenario and considered that whilst a large bottle of Coca-Cola Zero is on the dining table it is clearly being shared between a family of four, as evidenced by the four glasses visibly filled with Coca-Cola. The Board noted the final scene showing the younger brother sitting on a bench with a standard, single serve bottle of Coca-Cola Zero next to him. The Board noted that we do see the boy take a drink from this bottle but considered that it is a single serving sized bottle and there is no suggestion that this is not his first bottle of drink.

Overall the Board considered that in the context of depicting various scenes at different times in the two boys' lives, the advertisement does not depict, encourage or condone the excess consumption of a beverage.

The Board noted the complainant's concern that the advertisement encourages children to drink high calorie soft drinks. The Board noted that advertisers are allowed to promote their products to whomever they wish and considered in this instance the advertising or promotion of a soft drink does not of itself promote excess consumption.

The Board determined that the advertisement did not breach Section 2.2 of the AANA Food Code.

The Board considered section 2.9 of the Food Code which states that Advertising or Marketing Communications for Food and/or Beverage Products must comply with the AANA the Code of Ethics.

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted that the advertisement shows an older brother teasing his younger brother by placing an object out of his reach and stepping on his foot under the dinner table before coming to his rescue when some other boys try and steal his bottle of Coca-Cola.

The Board noted that the older brother's behaviour is not uncommon between siblings and considered that the older brother's protection of his younger brother at the end of the advertisement is suggestive of a loving relationship between the two boys despite the teasing. The Board noted that after scaring off the other boys the older brother hands the bottle of Coca-Cola to his younger brother then tips the bottom of the bottle whilst he is drinking so that some of the Coke spills on to the younger boy's chin. The Board noted the older boy smiles as he walks away and considered that there was no malice in his actions but rather he didn't want his younger brother to think he was being too kind. The Board considered that most members of the community would interpret the theme of the advertisement as a realistic depiction of a normal happy relationship between siblings rather than a depiction of bullying behaviour.

The Board noted the scene where three boys take a bottle of coke from the younger brother. The Board considered that in this scene the menacing behaviour of the three boys is shown to be unacceptable due to the intervention of the older brother.

The Board considered that the advertisement did not present or portray violence and determined that the advertisement did not breach Section 2.3 of the Code.

Finding that the advertisement did not breach the AFGC RCMI, the Food Code or the Code of Ethics, the Board dismissed the complaints.